



## **Q&A: Israel's Apartheid against Palestinians: Cruel System of Domination and Crime against Humanity**

### **1. Many other NGOs have used the term apartheid to describe Israel's treatment of Palestinians. How is Amnesty's report different?**

Amnesty has concluded that Israeli authorities are enforcing a system of apartheid against *all* Palestinians living under their effective control - whether they live in Israel, the Occupied Palestinian Territories (OPT), or in other countries as refugees. Our report provides new evidence of the institutionalized nature of Israel's oppression of Palestinians, and of how Israeli laws and policies are designed specifically to deprive Palestinians of their rights.

There is a growing body of work on the question of apartheid by Palestinian, Israeli and international human rights organizations, as well as lawyers, writers and academics. This includes recent research by Israeli human rights organizations [Yesh Din](#) and [B'Tselem](#), as well as [Human Rights Watch](#), who have contributed to a spectrum of analysis within the legal framework of apartheid. Human Rights Watch found that the Israeli government has demonstrated an intent to maintain the domination of Jewish Israelis over Palestinians across Israel and the OPT. Yesh Din [reached this conclusion](#) in the West Bank, specifically. B'Tselem [found that](#) Israel is maintaining a system of apartheid over Palestinians in the OPT as well as Palestinians living within its own borders.

### **2. Why is Amnesty issuing this report now?**

Amnesty International adopted a global policy on the human rights violation and crime of apartheid in 2017, following recognition that we had given insufficient attention to situations of systematic discrimination and oppression around the world. This has enabled us to examine potential situations of apartheid globally on a consistent basis. For example, in 2017, we released a report which found that the Myanmar government subjects the Rohingya people to a system of apartheid.

For too long, the international community has side-lined human rights when dealing with the question of Israel and the Palestinians. Palestinians experiencing the brutality of Israel's repression have been calling for an understanding of Israel's rule as apartheid for over two decades. Over time, a broader international recognition of Israel's treatment of Palestinians as apartheid has begun to take shape. These are some of the reasons we took the decision to initiate an investigation into the potential crime of apartheid in Israel and the OPT.



### **3. What difference does it make to call the situation “apartheid”?**

Apartheid is both an international wrong and a crime against humanity. When a crime against humanity is committed, the international community has an obligation to hold the perpetrators to account. We hope that by shedding more light on Israel’s discriminatory system of domination over the Palestinian people, we will intensify efforts to dismantle the harmful policies and practices that prevent Palestinians from living with equal rights and dignity. This can only be achieved when the international community holds the Israeli government and other complicit parties accountable.

### **4. What evidence is this report based on?**

Amnesty carried out research and analysis for this report between July 2017 and November 2021. We extensively analysed relevant Israeli legislation, regulations, military orders, governmental directives and statements by government and military officials. We reviewed official and publicly available documents, such as Israeli parliamentary archives, planning and zoning documents and plans, government budgets and Israeli court judgments.

We analysed Amnesty’s decades of documentation of human rights violations in Israel and the OPT, as well as reporting by UN agencies and human rights organizations, against the apartheid framework. For the case studies featured in the report, Amnesty conducted dozens of interviews with Palestinian communities in Israel and the OPT between February 2020 and July 2021.

We also consulted numerous representatives of Palestinian, Israeli and international NGOs, as well as UN agencies, academics, and legal experts and practitioners. We sought the advice of external experts on international law before and during our research and legal analysis. In addition, experts with specialist knowledge of the question of apartheid in international law reviewed the written legal argument and conclusions in the draft report.

### **5. What is apartheid?**

Apartheid is a violation of public international law, a grave human rights violation and a crime against humanity. It can be seen as both a system (formed of laws, policies and practices), and a crime (specific acts).

It is easier to explain apartheid as a system by first looking at definitions of the crime of apartheid. These are set out in the International Convention on the Suppression and Punishment of the Crime of Apartheid (Apartheid Convention) and the Rome Statute of the International Criminal Court (Rome Statute).

These treaties define apartheid as a crime against humanity, committed when any ‘inhuman’ or ‘inhumane’ act is perpetrated in the context of an ‘institutionalized regime’ of systematic ‘oppression’ and ‘domination’ by one racial group over another, with the intent to maintain



that system. Inhuman/inhumane acts include unlawful killing and serious injury, torture, forcible transfer, persecution, and the denial of basic rights and freedoms.

The definitions set out in the Rome Statute and Apartheid Convention are not identical. Our report explains in detail how the elements of each treaty apply to the situation in Israel and the OPT.

To identify the crime of apartheid, it is necessary to show that a system of oppression and domination is in place. Drawing on interpretations by legal experts, Amnesty considers this to mean the systematic, prolonged, and cruel discriminatory treatment by one racial group of members over another, with the intention to control the second group.

## **6. Where does international law mention a system of apartheid?**

The 1965 international Convention on the Elimination of All Forms of Racial Discrimination (ICERD) was the first international human rights law instrument to proscribe apartheid. It does not explicitly define apartheid but condemns “governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation.”

The public international law prohibition of apartheid is best found in an advisory opinion by the International Court of Justice relating to South Africa’s presence in Namibia, where the violation is defined as “distinctions, exclusions, restrictions and limitations exclusively based on grounds of race, colour, descent or national or ethnic origin which constitute a denial of fundamental human rights.”

When applying these definitions in our report, we also considered the references in international criminal law to regimes of oppression and domination. Under international human rights law and public international law, states are prohibited from establishing and maintaining regimes (or systems) of oppression and domination by one racial group over another.

## **7. Has Amnesty ever concluded that apartheid is taking place elsewhere?**

Yes. In 2017, Amnesty released a report which found that the Myanmar government subjects the Rohingya people to a system of apartheid.

It is important to note that systems of oppression and domination will never be identical, and our report does not seek to draw comparisons or analogies between the treatment of Palestinians and the Rohingya people.

Similarly, although the international community began using the term apartheid in response to the political system in South Africa, the conventions and treaties that condemn, prohibit, and criminalize apartheid are drafted in a universal manner. Our report does not argue that the system of apartheid enforced by Israel is the same or comparable to the situation in South



Africa between 1948 and the mid-1990s. Instead, it analyzes Israel's systematic discrimination against Palestinians against definitions of apartheid in international law.

### **8. Why do you refer to Jewish people and Palestinians as “racial groups”?**

It is not Amnesty's place to decide what constitutes a racial group. Our analysis in this report is based on how the term “racial group” is used within the apartheid framework in international law: as a subjective concept, dependent on the dominant group's perception of the other group. In a system of apartheid, the perpetrator of the crime treats the dominated racial group as being different and inferior on account of particular physical and/or cultural attributes.

Jewish Israelis and Palestinians self-identify as different groups. Crucially, as our report shows, Israeli law treats Palestinians as an inferior and separate group defined by their racialized non-Jewish, Arab status. This was made explicit in the 2018 Nation State Law, which declares that “Israel is the nation state of the Jewish people,” and that “the right of self-determination in the State of Israel is exclusive to the Jewish people.” This law does not recognize any other national identity despite Palestinians comprising 19% of the population within Israel. Israeli law thus establishes a superior “Jewish nationality” status that is distinct from citizenship.

### **9. How does Israel's treatment of Palestinians amount to apartheid?**

Since Israel was established in 1948, its policies and legislation have been shaped by an overarching objective: to maintain a Jewish demographic majority and maximize Jewish Israeli control over land at the expense of Palestinians.

In order to achieve this, successive governments have deliberately imposed a system of oppression and domination over Palestinians. The key components of this system are: territorial fragmentation; segregation and control; dispossession of land and property; and denial of economic and social rights.

Some examples of this system in practice are:

- Severe movement restrictions in the West Bank, enforced through a network of checkpoints and road closures. This is combined with a permits system which forces Palestinians who wish to visit other areas of the OPT to seek the Israeli military's permission.
- Superior nationality status for Jewish citizens of Israel that is distinct from citizenship and the basis for differential treatment of Jewish and non-Jewish citizens. Palestinians are denied that status.
- Systematic denial of building permits to Palestinians in East Jerusalem, resulting in repeated home demolitions and forced evictions. The expansion of illegal Israeli settlements in East Jerusalem forces Palestinians out of their homes and confines the



Palestinian population to progressively smaller enclaves.

- The denial of Palestinian refugees' internationally protected right to return. Israel bars displaced Palestinian families from returning to their former villages or homes in Israel and the OPT in order to retain control over demographics.
- Restrictions on access to land and fishing areas in the Gaza Strip, which exacerbate the socioeconomic impact of Israel's illegal blockade.

### **10. The Apartheid Convention mentions "inhumane acts" as one of its criteria. What inhumane acts has Israel committed?**

Israeli authorities systematically subject Palestinians to many of the acts identified as inhuman or inhumane by the Apartheid Convention and Rome Statute.

For this report, Amnesty examined: acts of forcible transfer; administrative detention and torture; unlawful killings and serious injuries; the denial of basic rights and freedoms; or persecution committed against the Palestinian population in Israel and the OPT associated with the system of discriminatory laws, policies, and practices.

We found that these constitute the crime against humanity of apartheid because they are committed in a context of systematic oppression and domination, and with the intent to maintain that system.

For example, in the OPT, Israeli forces regularly resort to lethal force to stifle protests by Palestinians calling for their rights to be respected. During the Great March of Return along the Israel/Gaza border, a series of mass weekly protests against the blockade and the exclusion of Palestinian refugees, Israeli forces killed 214 civilians, including 46 children, and injured more than 8,000 others.

### **11. Have Palestinian citizens of Israel also been subjected to "inhumane acts"?**

Amnesty acknowledges that inhuman or inhumane acts inside Israel occur to a lesser degree and in a far less violent manner than in the OPT. However, our report documents violations inside Israel which amount to inhumane acts and, in the context of the wider system of domination and oppression of Palestinians, crimes against humanity of apartheid.

For example, Israeli authorities have carried out repeated home demolitions and forced evictions against Bedouin Palestinians in the Negev/Naqab region, amounting to forcible transfer.

Under the Apartheid Convention and Rome Statute, inhuman/inhumane acts can include systemic violations as well as inherently violent ones. In its list of acts which can constitute the crime of apartheid, the Apartheid Convention includes:



“...measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country” and the deliberate creation of conditions preventing their full development by denying them “basic human rights and freedoms, including the right to work, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association.”

Some of the inhumane acts documented within Israel include:

- The denial of the rights of Palestinian refugees to return to their villages or homes
- The denial of the rights of both Palestinian refugees and so-called “present absentees” to reclaim their homes, land and property
- A state-sanctioned racist administration of public land that has excluded Palestinians from leasing on, accessing, developing or owning the overwhelming majority of public land and housing
- Discriminatory restrictions on family reunification and the right to marry and extend residency rights

Our report considers the legally mandated nature of many of these inhuman and inhumane acts, and the failure of Israeli courts to provide remedies or to end these violations.

The discriminatory treatment of Palestinian citizens of Israel is crucial to understanding Israel’s system of oppression and domination over Palestinians. The crime of apartheid does not, however, require that *all* members of a racial group are consistently subjected to inhumane acts; the key element is that these acts take place within the wider system.

## **12. Palestinian citizens of Israel have many more rights than their counterparts in the OPT - how can you say they are subject to the same system?**

Our report acknowledges those differences. While there are Palestinian citizens of Israel who serve in the Israeli parliament and other branches of government, or who may be fortunate enough to excel in their professions, this does not negate our finding that a system of oppression and domination extends to Palestinians living within Israel’s borders. We have outlined examples of such systematic discrimination in the answers to the above question.

It’s also important to recognize that the geographical fragmentation of the Palestinian people is itself a foundational element of the apartheid system. In Israel, East Jerusalem and the rest of the West Bank, and the Gaza Strip, as well as in refugee communities, Israel operates interconnected administrative and legal systems of control over Palestinians. Looking at these areas separately misses the full picture.



The Israeli government's differential treatment of Jewish Israelis and Palestinians knows no borders. For example, Israel extends full protections and services to Jewish Israelis living in illegal settlements in the OPT, while depriving Palestinians in these areas of fundamental human rights.

**13. Do your findings apply to Palestinians who are now citizens of other countries, after initially arriving there as refugees?**

Yes. Israel denies Palestinian refugees outside Israel and the OPT the right to citizenship and prevents them from returning to their homes. This is a serious violation of their right to leave and to return to their country, their right to a nationality, and their right to freedom of movement and residence. The exclusion of Palestinian refugees is crucial for Israel's demographic objectives.

When committed with the intention of controlling the Palestinian population as a whole, these violations contribute to maintaining the system of oppression and domination, and amount to inhuman/inhumane acts that fit the apartheid criteria.

**14. Why do you conclude that Israel is maintaining apartheid rule over Palestinians in the West Bank and Gaza Strip when they are governed by Palestinian authorities?**

The Fatah-led Palestinian authorities in the West Bank and the Hamas de facto administration in the Gaza Strip operate under Israel's military occupation. Israel retains effective control over these territories, including the Palestinian population living there, their natural resources and, with the exception of Gaza's short southern border with Egypt, their land and sea borders and airspace. In some areas of the West Bank and Gaza, Palestinian authority is extremely limited - for example where there are Israeli settlements or checkpoints restricting movement.

**15. Does Amnesty condemn human rights violations by Palestinian authorities, too?**

Yes. Though not the subject of this report, Amnesty has consistently documented serious violations by the Palestinian authorities in the West Bank and Gaza. We routinely report on and condemn unlawful attacks by Palestinian armed groups against Israeli civilians. This includes the firing of indiscriminate rockets from Gaza into Israel, which we called for the International Criminal Court to investigate as war crimes.

We have also documented human rights violations against Palestinians by Palestinian authorities, including torture, arbitrary detention, restrictions on freedom of expression, and excessive use of force against protesters.

**16. Supporters of the Israeli government have accused Amnesty in the past of "singling out Israel." How do you respond to those allegations?**





Amnesty documents human rights violations by governments all over the world, including Palestinian authorities, and we apply the same standards and policies when assessing the human rights records of all states. A brief glance at our Middle East North Africa [page](#) demonstrates our attention to rights violations happening throughout the region.

Many states would rather not have their human rights violations exposed. In our experience, it is very common for states to try to divert attention away from our findings with accusations of bias, especially if they have no substantive response to the evidence of violations.

### **17. Doesn't Israel put the policies you have documented in place to counter security threats?**

Like all countries, Israel has the right - and indeed an obligation under international law - to protect all people under its control, and to ensure the security of its territory. However, security-related policies must still comply with international law, and they must be proportionate to the threat posed.

Israeli authorities justify many of the policies presented in the report on security grounds, including land confiscation, denial of building and planning permits, residency revocations, restrictions on movement, and discriminatory laws on family reunification. Amnesty examined each of the security justifications cited by Israel and concluded that these are used as a pretext for actions which are, in fact, motivated by the intent to control the Palestinian people and exploit their resources.

For example, the prolonged and cruel discriminatory denial of Palestinians' access to their land and property that was seized in a violent and discriminatory manner has no security rationale. There is no security basis for the effective segregation of Palestinian citizens of Israel through discriminatory laws on planning and access to housing or the denial of their right to claim their property and homes seized under the authority of racist laws. Similarly, arbitrary and discriminatory interference with the rights of Palestinian citizens of Israel to marry and extend rights of residence to their spouses and children, in the absence of evidence that particular individuals pose a threat, cannot be justified based on security.

In the context of Israel's occupation of the West Bank and Gaza Strip, certain limitations on human rights may be permissible under international humanitarian law if conducted in good faith. However, the justification for the differential treatment cannot extend to the settlement of Jewish Israelis in the occupied territories. Nor can it extend to the murders, the targeted killings, the torture, the deportation and forcible transfers of populations that have been perpetrated in the OPT over the years.

Israel keeps information about security secret, which often means individuals whose rights are violated in the name of security have no meaningful way to challenge them.

The report gives numerous examples of policies where genuine security considerations have been far outweighed by the clear, and illegitimate, intent to dominate and oppress.





**18. You are calling for Israel’s apartheid system to be dismantled. Does this mean dismantling the state of Israel?**

No. Amnesty’s focus is on human rights violations committed by states, not the legitimacy of governments or states themselves. For example, as a matter of policy, we do not ever call for “regime change;” we instead provide recommendations on how governments can bring their actions in line with international law.

Amnesty International recognizes that both the Jewish and the Palestinian people claim the right to self-determination.

In addition, the report addresses whole sets of recommendations to the state of Israel, and we’ve requested meetings with Israeli officials to discuss them. The state of Israel has been a member of the United Nations since its establishment in 1948. It is a party to international human rights conventions and other treaties and therefore must respect these obligations, including by upholding the right to equality and non-discrimination, and by ending and remedying violations of international law.

This report is a call for the Israeli government to undertake reforms necessary for Israel to comply with its obligations under international law. In this regard, and as an example, international law does not prohibit Israel from encouraging Jewish immigration, however this cannot be accompanied by discrimination against Palestinians exercising their right to return or otherwise contribute to the oppression and domination of Palestinians.

**19. By calling on Israel to dismantle its apartheid system, are you advocating for one binational state in place of Israel and a future Palestinian state?**

This is a political issue and, as such, Amnesty takes no position on this, or on a two-state solution, confederation, or other possible arrangements.

Our only call with any political solution would be that it be based on respect for international law, including international human rights law, international humanitarian, and international criminal law.

**20. Why is Amnesty calling for sanctions?**

Amnesty is calling on the UN Security Council to impose targeted sanctions, such as travel bans and asset freezes against Israeli officials most implicated in the crime of apartheid, and to impose a comprehensive arms embargo on Israel. This is in order to prevent Israel from committing war crimes and other serious violations.

We are not calling for the imposition of wide-ranging economic sanctions, or any sanctions that are not targeted. An arms embargo should cover the supply, sale or transfer of all weapons, munitions and security equipment including training. We have in the past, as per our policy,



called for these types of sanctions on other countries, including Syria, Libya, Sudan, Myanmar and Nepal.

**21. Israel is not party to the Rome Statute or Apartheid Convention. Doesn't this mean they are not bound by their obligations?**

No. Firstly, Israel has ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which prohibits apartheid. Secondly, the prohibition of apartheid forms part of customary international law, which consists of international obligations arising from general practice of states accepted as law. The International Court of Justice (ICJ) has stated that apartheid is a “flagrant violation of the purposes and principles of the (UN) Charter”.

Amnesty also considers that there is strong evidence that the definition of apartheid as a crime against humanity in the Rome Statute reflects customary international law.

**22. What is the role of the International Criminal Court in this situation?**

The International Criminal Court (ICC) has had jurisdiction over crimes committed in the State of Palestine since June 2014. In March 2021, the Office of the Prosecutor (OTP) of the ICC announced that it had initiated an investigation into the Situation in Palestine. The territorial scope of its jurisdiction covers Gaza and the West Bank, including East Jerusalem.

Since the crime against humanity of apartheid is being committed in these territories, we are calling on the OTP to consider including this crime in the investigation.

**Read the full report on our website at [www.amnesty.ca](http://www.amnesty.ca).**